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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/601,996
Filing Date: June 23, 2003
Appellant(s): PFEIFER ET AL.

Roy W. Truelson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/29/07 appealing from the Office
action mailed 05/29/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,928,474

Venkatesan

08/2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claims 9-16, the term "A computer-readable program" is not defined in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter of "analyzing said user navigation information to identify differences between the behavior of users navigating within said web site during

a first subset of said plurality of user web sessions and the behavior of users navigating within said web site during user web sessions which are not within said first subset of said plurality of user web sessions..." is not properly described in the specification as filed.

The applicant is requested to identify by suitable reference to pages and line numbers and/or drawing figures the subject matter in the specification.

Although the Appellant has explained the terminology of "analyzing said user navigation information to identify differences between the behavior of users navigating within said web site during a first subset of said plurality of user web sessions and the behavior of users navigating within said web site during user web sessions which are not within said first subset of said plurality of user web sessions..." in the appeal brief, it is noticed that such description of the terminology was not disclosed in the original specification; One skill in the art would not clearly understand the terminology; therefore the rejection is proper.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United

States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Venkatesan [US. 6,928,474].

As to claims 1 and 9, Venkatesan teaches a method for analyzing user behavior in a man-machine interface of a data processing system in which user action is tracked, characterized by the steps of: defining at least one success element associated with user navigation within said man-machine interface occurring during a user session (column 2, lines 29-43); storing user navigation information from a plurality of said user sessions, said user navigation information being associated with said at least one success element and reflecting the user navigation behavior within said man-machine interface occurring during said plurality of said user sessions (column 2, lines 49-65); correlating, within said user navigation information, said at least one success element (column 2, lines 45-47) to user navigation behavior within said man-machine interface occurring during said plurality of said user sessions (column 2, line 61 through column 3, line 21), and performing a statistical analysis on a plurality of different sets of navigation information collected in respective different user sessions (figures 2-3).

Venkatesan teaches at least one success element associated with user navigation, the prior art suggested that the number of completed transactions in a given time period being taught at column 2, lines 45-47. Venkatesan also

suggests plurality paths which a user takes during a plurality of the user sessions (figure 4, 50-56).

As to claims 2 and 10, Venkatesan teaches user navigation information being collected from user navigation when visiting a Website (column 3, lines 5-45).

As to claims 3 and 11, Venkatesan also teaches the step of graphically representing results of said statistical analysis in a graph-like form (figures 2-3).

As to claims 4 and 12, Venkatesan teaches the step of filtering analysis results according to one or more success elements (column 3, lines 45-60).

As to claims 5 and 13, Venkatesan also teaches a success element definition, location information associated with said success element, time information associated with a user action related to said success element, and session information identifier which allows to identify different users (column 6, lines 33-60).

As to claims 6 and 14, Venkatesan teaches user navigation information being collected from user navigation in a user application program (column 4, lines 40-65).

As to claims 7 and 15, Venkatesan also teaches after a predetermined level of collected navigation data has been achieved, changing the man-machine interface such that user preferences are displayed in an emphasized way (column 4, lines 40-65).

As to claims 8 and 16, Venkatesan fails to teach at least parts of the non-preferred rest of said man-machine interface being displayed in a background

way. However, the non-preferred rest to said man-machine interface being displayed in a background way was well known in the computer art. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the well known implementation with Venkatesan. Motivation of the combination would have been to provide user a man machine interface for those who might need.

As to claim 17, Venkatesan teaches a method for analyzing user behavior in a man-machine interface of a data processing system in which user action is tracked, characterized by the steps of: defining at least one success element associated with user navigation within said man-machine interface occurring during a user session (column 2, lines 29-43); said at least one success element comprising at least one user input indication successful completion of an operation by a user during said user web session (column 4, lines 50-56, the user navigates from page to page to complete a successful transaction on the webpage and column 2, lines 42-46, Venkatesan cited "...the number of completed transactions in a given time period.." representing one success element comprising at least one user input).

storing user navigation information from a plurality of said user sessions, said user navigation information being associated with said at least one success element and reflecting the user navigation behavior within said man-machine interface occurring during said plurality of said user sessions (column 2, lines 49-65); correlating, within said user navigation information, said at least one

success element to user navigation behavior within said man-machine interface occurring during said plurality of said user sessions (column 2, line 61 through column 3, line 21), and performing a statistical analysis on a plurality of different sets of navigation information collected in respective different user sessions (figures 2-3).

analyzing said user navigation information to identify differences between the behavior of users navigating within said web site during a first subset of said plurality of user web sessions and the behavior of users navigating within said web site during user web sessions which are not within said first subset of said plurality of user web sessions, said first subset of said plurality of user web sessions being user web sessions of said plurality of user web sessions for which at least one said success element as defined by said defining step is associated with user navigation of said interface provided by said web site during the respective user web session, said first subset being fewer than all said user web sessions (column 4, lines 49-51, a plurality of paths is analyzed to identify differences between the behavior of user navigating within the website. The first path is different from the second path and so on....The behavior of user navigating is different representing a plurality of different paths).

Venkatesan teaches at least one success element associated with user navigation, the prior art suggested that the number of completed transactions in a given time period being taught at column 2, lines 45-47. Venkatesan also

suggests plurality paths which a user takes during a plurality of the user sessions (figure 4, 50-56).

As to claim 18, Venkatesan fails to clearly teach at least one success element comprising at least one user input indicating successful completion of an on-line purchase by the user during said web session, however suggested that the number of completed transactions in a given time period being taught at column 2, lines 45-47. Venkatesan suggests the number of completed transactions in a given time period at column 2, lines 45-47.

Venkatesan teaches at least one success element associated with user navigation, the prior art suggested that the number of completed transactions in a given time period being taught at column 2, lines 45-47. Venkatesan also suggests plurality paths which a user takes during a plurality of the user sessions (figure 4, 50-56).

As to claim 19, Venkatesan teaches the step of modifying said interface provided by said web site responsive to said differences identified by said analyzing step (column 6, lines 51-67).

(10) Response to Argument

Appellant argues that the examiner improperly took Official Notice. The examiner agrees and admits that she was confused as to when a taking of Official Notice is necessary. In the instant case, there was no need for the examiner to take Official Notice because the reference clearly teaches the term "success element". Venkatesan teaches, as disclosed at column 2, lines 42-47,

"The technique can also be useful in collecting E-commerce and/or marketing related information such as the number of hits a web page containing a certain ad is receiving, discovering customer profiles, and the number of completed transactions in a given time period." It is clear that Venkatesan teaches collection of data of the user when he/she achieved some goal such as the number of completed transaction in a given time period. It is similar to the invention as the Appellant has stated in the appeal brief (page 6) that "in a simple example, a "success element" might be the completion of an on-line purchasing transaction from a merchant...". **The "success element" is met by the reference.**

Therefore, the examiner mistakenly took Official Notice because Venkatesan fully discloses all the limitations of the invention claims.

Appellant has argued that Venkatesan does not teach that a success element be defined and that the data be analyzed to identify differences between the navigation behavior occurring in user web session which are not within the first subset. This second element necessarily implies that navigation data is differentiated according to whether it comes from a successful web session or an unsuccessful web session."

However, the examiner respectfully disagrees with this argument.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which

applicant relies (navigation data is differentiated according to whether it comes from a successful web session or an unsuccessful web session) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The claim has recited "to identify differences between the behavior of users navigating within said web site during a first subset of said plurality of user web sessions and the behavior of users navigating within said web site during user web sessions which are not within said first subset of said plurality of user web sessions...". The term of "unsuccessful web session" has been never recited in the claims.

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

Appellant has stated that Venkatesan fails to teach navigation data being analyzed to identify navigation differences between a subset of user sessions defined by success criteria and user session not in the subset.

Appellant has also argued Venkatesan fails to teach navigation data is analyzed to correlate a success definition with user navigation behavior.

It is noticed that the term of a "first subset" is not supported by the original specification. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "subset" is new matter.

Moreover, even if the term "subset" is not new matter, Venkatesan meets the limitation. Venkatesan teaches, as disclosed at column 2, lines 42-47, "The technique can also be useful in collecting E-commerce and/or marketing related information such as the number of hits a web page containing a certain ad is receiving, discovering customer profiles, and the number of completed transactions in a given time period."

Venkatesan teaches collection of data of the user when he/she achieved some goal such as the number of completed transaction in a given time period.

Therefore, a subset is inherent in Venkatesan's collection of data.

In addition, the step of "navigation data being analyzed to identify navigation differences between a subset of user sessions defined by success criteria and user session not in the subset." was well known in the art because the system has determine who is successful or who is not successful. The system has collected data and analyzed these kinds of data to determine a success element or an unsucess element. Appellant's attention is directed to column 2, line 66 through column 3, line 45, cited "A web-monitoring tool is connected to web site system to monitor each of the web navigation sequences executed by each user while browsing the web pages provided by the web site. The web-monitoring tool electronically monitors the web navigation sequences performed by each user visiting the web site....A PALM analyze connected to the web administrator and the web monitoring tool through a database structure analyzes each of the monitored web navigation sequences to predict web navigation sequences of future users visiting the web site....A PAM analyzer also analyzes each of the web navigation sequences to collect user navigation information such as age, web pages visited by the user, gender or any other relevant information that could aid in further predicting the user navigating patterns of the web site. The PAM analyzer can also analyze each of the stored web navigation sequences to predict business patterns, and can also predict technical problems and system bottlenecks that could be experienced by the web site based on the user navigation patterns....".

It is inherent that the system monitors and analyzes each of the web navigation sequences to collect user navigation information. In an example, the recorded data is then analyzed to determine which user is successful in purchase on-line and which user is not successful in purchase on-line.

Venkatesan clearly teaches navigation data being analyzed to correlate a success definition with user navigation behavior.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Mylinh Tran

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Conferees:

/Lynne H Browne/
Lynne Browne
Appeal Practice Specialist, TQAS

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Weilun Lo
SPE. AU 2179